

105TH CONGRESS
1ST SESSION

S. 982

To provide for the protection of the flag of the United States and free speech, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 1997

Mr. McCONNELL (for himself and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the protection of the flag of the United States and free speech, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Flag Protection and
5 Free Speech Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) the flag of the United States is a unique
9 symbol of national unity and represents the values
10 of liberty, justice, and equality that make this Na-

1 tion an example of freedom unmatched throughout
2 the world;

3 (2) the Bill of Rights is a guarantee of those
4 freedoms and should not be amended in a manner
5 that could be interpreted to restrict freedom, a
6 course that is regularly resorted to by authoritarian
7 governments which fear freedom and not by free and
8 democratic nations;

9 (3) abuse of the flag of the United States
10 causes more than pain and distress to the over-
11 whelming majority of the American people and may
12 amount to fighting words or a direct threat to the
13 physical and emotional well-being of individuals at
14 whom the threat is targeted; and

15 (4) destruction of the flag of the United States
16 can be intended to incite a violent response rather
17 than make a political statement and such conduct is
18 outside the protections afforded by the first amend-
19 ment to the Constitution.

20 (b) PURPOSE.—The purpose of this Act is to provide
21 the maximum protection against the use of the flag of the
22 United States to promote violence while respecting the lib-
23 erties that it symbolizes.

1 **SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES**
2 **AGAINST USE FOR PROMOTING VIOLENCE.**

3 (a) IN GENERAL.—Section 700 of title 18, United
4 States Code, is amended to read as follows:

5 **“§ 700. Incitement; damage or destruction of property**
6 **involving the flag of the United States**

7 “(a) DEFINITION OF FLAG OF THE UNITED
8 STATES.—In this section, the term ‘flag of the United
9 States’ means any flag of the United States, or any part
10 thereof, made of any substance, in any size, in a form that
11 is commonly displayed as a flag and that would be taken
12 to be a flag by the reasonable observer.

13 “(b) ACTIONS PROMOTING VIOLENCE.—Any person
14 who destroys or damages a flag of the United States with
15 the primary purpose and intent to incite or produce immi-
16 nent violence or a breach of the peace, and under cir-
17 cumstances in which the person knows that it is reason-
18 ably likely to produce imminent violence or a breach of
19 the peace, shall be fined not more than \$100,000, impris-
20 oned not more than 1 year, or both.

21 “(c) DAMAGING A FLAG BELONGING TO THE UNITED
22 STATES.—Any person who steals or knowingly converts to
23 his or her use, or to the use of another, a flag of the Unit-
24 ed States belonging to the United States, and who inten-
25 tionally destroys or damages that flag, shall be fined not

1 more than \$250,000 imprisoned not more than 2 years,
 2 or both.

3 “(d) DAMAGING A FLAG OF ANOTHER ON FEDERAL
 4 LAND.—Any person who, within any lands reserved for
 5 the use of the United States, or under the exclusive or
 6 concurrent jurisdiction of the United States, steals or
 7 knowingly converts to his or her use, or to the use of an-
 8 other, a flag of the United States belonging to another
 9 person, and who intentionally destroys or damages that
 10 flag, shall be fined not more than \$250,000, imprisoned
 11 not more than 2 years, or both.

12 “(e) CONSTRUCTION.—Nothing in this section shall
 13 be construed to indicate an intent on the part of Congress
 14 to deprive any State, territory, or possession of the United
 15 States, or the Commonwealth of Puerto Rico of jurisdic-
 16 tion over any offense over which it would have jurisdiction
 17 in the absence of this section.”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
 19 ter 33 of title 18, United States Code, is amended by
 20 striking the item relating to section 700 and inserting the
 21 following:

“700. Incitement; damage or destruction of property involving the flag of the
 United States.”.

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